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10/635,880	08/05/2003	Eric Justin Gould	6057-06101	1594
35690	7590	07/23/2008	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			WINDER, PATRICE L	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/635,880	GOULD, ERIC JUSTIN
	<b>Examiner</b>	<b>Art Unit</b>
	Patrice Winder	2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 3-18-2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 23-47,50-52,54-59,73-80,86-91,94 and 102-120 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 23-47,50-52,54-59,73-80,86-91,94 and 102-120 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 23-47, 50-52, 54-80, 86-93, 108-109 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The established statutory categories of inventions include process (or method), machine, article of manufacture, composition of matter and improvements of the previous categories. Each claim rejected in this section cannot be assigned a statutory category of invention. The claims appear to be software without an embodied tangible medium. (At the present, claims directed to software must include a tangible embodiment.) Applicant's language such as "when executed", "capable of causing" and "executable" conveys an intended use of the software without specifically claiming the intended use. As articulated in the claims the intended use of the software does not provide a tangible result or tangible embodiment.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's specification lacks reference to the concept of "tangibility" or the word "tangible". Therefore, the insertion of the word "tangible" is new matter.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 23-39, 46-47, 50-52, 59-67, 73-74, 86-91, 94, 102-104, 107 and 109-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich,

USPN 5,504,852 (hereafter referred to as Thompson-Rohrlich) in view of Vora et al., USPN 5,819,273 (hereafter referred to as Vora).

7. Regarding claim 23, Thompson-Rohrlich taught a computer readable medium storing instructions that when executed by a computer system connected to a network are capable of causing the computer system to:

define a meta-folder as a type of graphical element, wherein an instantiation of the meta-folder graphical element type is associable with 1) one or more search objects having corresponding search criteria and 2) one or more conventional objects (column 3, lines 9-16);

display, via a first graphical interface of the computer system, a first graphical representation of a first meta-folder instantiated on the computer system (Figure 3); upon selection of the first meta-folder via the first graphical interface:

for any search objects associated with the first meta-folder (column 5, lines 58-59), initiate searching the computer system and the network for conventional objects that satisfy the corresponding search criteria (column 4, lines 44-53); and

display, via the first graphical interface, graphical elements representing 1) any conventional objects located as a result of the searching (column 3, lines 23-30) In Figure 3, Thompson-Rohrlich taught a special icon 30 indicates that the conventional object is the result of a search. Figure 3 also illustrates at least one conventional object without the special icon 30, i.e. conventional objects not resulting from a search.

Thompson-Rohrlich taught conventional objects associated with a folder not the result of the searching (column 3, lines 5-8). However, Thompson-Rohrlich does not provide

details as to how conventional objects are associated with the metafolder. Vora taught conventional object (such as information sources) being associated with the metafolder (column 9, lines 64-67; column 10, lines 1-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Vora's conventional objects associated with a metafolder in Thompson-Rohrlich's metafolder would have refined the search criteria. The motivation would have been to better articulate the search criteria associated with metafolders.

8. Regarding claims 24-31, Vora taught the network includes a local area network (column 5, lines 26-29), a wide area network (column 5, lines 26-29) and/or the Internet (column 5, lines 47-53) and the network includes a collection of storage systems for storing at least some of the conventional objects located as a result of searching (column 6, lines 37-40, 56-66).

9. Regarding claim 32, Vora taught the network includes a user server connected to the computer system (column 14, lines 39-43).

10. Regarding claims 33 and 34, Vora taught the user server stores the first metafolder and at least some of the conventional objects located as a result of the searching (column 14, lines 39-43).

11. Regarding claims 35-39, Vora taught the user server is connected to the computer system via a LAN, WAN or Internet and the user server is connected to a content server via the Internet (column 5, lines 26-29, 47-53), wherein the content server is a web-page server (column 5, lines 47-53), an FTP server or a news server (column 17, lines 48-58).

12. Regarding claim 46, Vora taught conventional objects include conventional folders, conventional files, electronic mail, notes, contact or address book items or files containing text, audio or video information (column 6, lines 40-46).

13. Regarding claim 47, Vora taught the search criteria includes wildcard characters (Figure 4A; column 9, lines 38-51).

14. Regarding claims 50 and 51, Vora taught the first meta-folder includes descriptive text, wherein the descriptive text describes the search object (Figure 4A, column 9, lines 44-51).

15. Regarding claim 52, Thompson-Rohrlich taught causing the computer system to display the first meta-folder, the icons representing the conventional objects that satisfy the corresponding search criteria and any conventional objects associated with the first metafolder a single screen of the user interface (Figure 3, column 3, lines 23-30).

16. Regarding dependent claim 109, Thompson-Rohrlich taught the first meta-folder includes at least one search object (column 4, lines 13-22), and wherein the first meta-folder does not statically point to any conventional objects (column 6, lines 58-62).

17. The limitations of remaining claims 59-67, 73-74, 86-91, 94, 102-104, and 107 are similar to the limitations of previously rejected claims 23-39, 46-47, and 50-52, above.

18. Regarding dependent claims 110-114, Thompson-Rohrlich taught any conventional objects that have been associated with the first meta-folder have been associated by being moved into the first meta-folder in response to input received via the first graphical interface (using user interface to add search criteria, column 3, lines 5-13, 23-25); and

wherein the graphical elements representing 1) any conventional objects located as a result of the searching and 2) any conventional objects associated with the first meta-folder are movable out of the first meta-folder in response to input received via the first graphical interface (files removed from viewer because of search criteria, column 6, lines 25-32).

19. Claims 44-45,105-106 and 115-120 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Vora as applied to claims 23 and 102 above, and further in view of Khan, USPN 6,546,393 B1 (hereafter referred to as Khan).

20. Regarding claims 44-45, 105-106, 115-120, Thompson-Rohrlich-Vora does not specifically teach using a computer system to initiate transfer of a first metafolder through electronic mail. However, Khan further discloses the computer system to initiate a transfer of the first meta-folder via the network, wherein the transfer occurs through electronic mail (column 21, line 55 - column 22, line 32). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Khan's transferring metafolders by electronic mail in Thompson-Rohrlich-Vora's system for searching and organizing would have prompted system utility. The motivation would have been to allow file transfers of search results without employing a specific file transfer utility.

21. Claims 40-43, 54-58 and 68-71 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Vora as applied to claims 32 and 60 above, and further in view of Fritsch, USPN 6,233,682 B1 (hereafter referred to as Fritsch).

22. Regarding claims 40-43, Thompson-Rohrlich-Vora does not specifically teach the user server is connected to a vendor server, wherein the first meta-folder is stored on the vendor server or the user server, wherein the vendor server includes a search engine of media products and wherein the media products include books, video tapes, DVDS, CDS and audio cassettes. However, Fritsch, in the same object searching field of endeavor, does disclose a server is connected to a vendor server via the internet, wherein a folder is stored on the vendor server, wherein the vendor server includes a search engine of media products and wherein the media products include books, video tapes, DVDS, CDs and audio cassettes (column 3, line 40 - column 4, line 46). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Fritsch's vendor server with multimedia products into Thompson-Rohrlich's system for searching and organizing would have expanded system utility. The motivation would have been to provide access to heterogeneous file types.

23. Regarding claims 54-55, Fritsch taught the first metafolder contains objects that pertain to music, wherein the computer system initiates playing the music (column 1, lines 10-64; column 4, lines 47-67).

24. Regarding claims 56-58, Fritsch taught the computer system to generate graphical representations that indicate whether the music is owned or un-owned, wherein the computer system to initiate a purchase of the music and the computer system to provide a link from which the user can purchase the music (column 5, line 25 - column 6, line 32).

25. The limitations of the remaining claims 68-71 are similar to previously rejected claims 40-43, 54-58, above.

26. Claims 75-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Vora as applied to claim 74 above, and further in view of Treyz et al., USPN 6,587,835 B1 (hereafter referred to as Treyz).

27. Regarding claims 75, 77 and 79, Thompson-Rohrlich does not specifically teach the enhanced device is a personal digital assistant, web-access enabled portable telephone or an audio player (column 9, lines 57-66; column 17, lines 5-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Treyz's plurality of enhanced devices in Thompson-Rohrlich's system for searching and organizing would have improved utility. The motivation would have been to use handheld devices to better assist users in performing wireless transactions.

28. Regarding claims 75-76, Treyz taught the enhanced device is a personal digital assistant and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the representations of the conventional objects that result from the searching, and other objects in an intermingling manner on the a user interface of the enhanced device (column 3, lines 23-30).

29. Regarding claims 77-78, Treyz taught the enhanced device is a web-access enabled portable telephone and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the graphical representations of the conventional objects that result from the searching, and other

objects in an intermingling manner on the a user interface of enhanced device (column 3, lines 23-30).

30. Regarding claims 79-80, Treyz taught the enhanced device is an audio player and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the graphical representations of the conventional objects that result from the searching, and other objects in an intermingling manner on the a user interface of enhanced device (column 3, lines 23-30).

### ***Response to Arguments***

31. Applicant's arguments filed March 18, 2008 have been fully considered but they are not persuasive.

32. Applicant argues – “Applicant thus submits that the 'All Mail' folder refers to a 'collection of aliases resulting from a search' and thus is not a conventional object' as in claim 23.”

a. Applicant's claim does not define a “conventional object”. No meaning has been attributed to the term “conventional object” in the claim. Thompson–Rohrlich taught that an “alias” is a link to an original file, see column 1, lines 32-

38. Because the "alias" represent the actual file, an "alias" is a conventional object. Thompson-Rohrlich also taught “aliases” are collected in a folder, see column 2, lines 62-65. Either the "aliases" or the folder containing the “aliases” are “conventional objects”. Therefore, applicant's arguments are not persuasive.

33. Applicant argues – “Thus, Thompson-Rohrlich is not believed to teach or suggest ‘a meta-folder as a type of graphical element, wherein an instantiation of the meta-folder graphical element type is associable with … one or more conventional objects,’ as recited in claim 23.”

b. The concept of “conventional object” has not been defined in the associated claim 23. An “alias” according to Thompson-Rohrlich represents the actual file and actually links to the actual file, see column 1, lines 32-38. Thompson-Rohrlich also taught that “aliases” are collected in folders. Both the “aliases” and “folders” are conventional objects.

34. Applicant argues – “Because the Examiner has not clearly stated a valid motivation for combining the suggested references, Applicant submits that a *prime facie* case of obviousness has not been made.”

35. Applicant’s ignores that both the Thompson-Rohrlich and Vora inventions were both created by Apple Computers, giving the inventions a common assignee. Both inventions are known to this common assignee and as such there is motivation for combination. Also, both inventions are in the same field of endeavor, searching for matching files to established search criteria.

36. Applicant argues – “Khan does not appear to teach the ‘transfer’ of these bookmarks, let alone the recited ‘meta-folders,’ to which Kahn bears no apparent relation.”

c. The “metafolder” of the Thompson-Rohrlich-Vora combination includes comprises icons that provide links to files that are located throughout the

network. A bookmark is a link to a file located at the path associated with the bookmark. The technology that is available to send a bookmarks or sets of bookmarks is easily adapted to send any links to files.

### ***Conclusion***

37. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice Winder/  
Primary Examiner, Art Unit 2145

July 21, 2008